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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/870,373	05/30/2001	LaVonne Cule	BELA 4280.1	7437

321 7590 09/21/2005

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER	
MUHEBBULLAH, SAJEDA	
ART UNIT	**PAPER NUMBER**
2174	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary	Application No.	Applicant(s)	
	09/870,373	CULE ET AL.	
	Examiner	Art Unit	
	Sajeda Muhebbullah	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20 and 22-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 22-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to RCE filed on 6/27/2005.

2. Claims 1-20 and 22-31 are pending in this application. Claims 1, 15, 20, and 29 are independent claims. In the RCE Amendment, claims 1, 15, 20, and 29 were amended.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-8, 14-20, 22-23, and 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain (US 5,720,502) in view of Richardson (US 6,314,405).

As per independent claim 1, Cain teaches a method of graphically indicating patient information, said method comprising the steps of:

receiving information identifying one or more conditions of the patient (Cain, col. 3, lines 40-49; col. 4, lines 49-57);

selecting at least one icon from the plurality of icons, said selected icon corresponding to at least one of the identified conditions of the patient (Cain, col. 4, lines 57-63); and

creating the fixed image, said fixed image including the selected icon located at the predetermined position in the fixed image (Cain, col. 4, lines 57-63).

However, Cain fails to teach relating each of the plurality of icons to a predetermined position in a fixed image associated with a patient, wherein the predetermined position is independent of the identified conditions of the patient. Richardson teaches an icon driven

method of displaying patient information whereby a plurality of icons relates to a predetermined position of a fixed image associated with a patient, wherein the predetermined position is independent of the identified conditions of the patient (Richardson, col.4, lines 34-47; *the position of the icon is determined by the user which the user may indicate to be anywhere, even the same for all patients. Thus, dictating the position regardless of which patient, makes it independent of the condition of the patient*). It would have been obvious to one of ordinary skill in the art at the time of the invention to include Richardson's teaching with Cain's method in order to provide a quicker method of associating an icon to the corresponding body part.

As per claim 2, which is dependent on claim 1, Cain teaches the method of claim 1, further comprising the step of proximally associating the image with the patient (Cain, col. 4, lines 57-63).

As per claim 3, which is dependent on claim 1, Cain teaches the method of claim 1, wherein the conditions are selected from the group consisting of: hearing impairment, right arm weakness, left arm weakness, special diet, no lift, one person lift, two person lift, comatose, total lift, right leg weakness, left leg weakness, cardiac, pivot lift, wheelchair bound, vision impairment, Alzheimer's, potentially combative, incontinent, turn and reposition, cognitive impairment, potential to elope, diabetic, and speech impairment (Cain, col. 5, lines 25-27).

As per claim 4, which is dependent on claim 1, Cain teaches the method of claim 1, further comprising the step of associating an electronic representation of the image with the patient (Cain, Fig. 3; col. 4, lines 52-53).

As per claim 5, which is dependent on claim 1, Cain teaches the method of claim 1, wherein the step of creating the fixed image includes generating an electronic representation of

the image and moving each of the selected icons to its predetermined position on the image (Cain, col. 4, lines 57-63).

As per claim 6, which is dependent on claim 5, Cain teaches the method of claim 5, further comprising the step of printing the image with the selected icons in their respective, predetermined positions on the image (Cain, col. 4, lines 63-67).

As per claim 7, which is dependent on claim 5, Richardson teaches the method of claim 5, further comprising the step of executing a computer program for automatically positioning the selected icons in their respective, predetermined positions on the image (Richardson, col. 4, lines 45-47).

As per claim 8, which is dependent on claim 5, Cain teaches the method of claim 5, further comprising the step of storing the image with the selected icons in a computer readable medium (Cain, col. 4, lines 63-67).

As per claim 14, which is dependent on claim 1, Cain teaches one or more computer readable media having computer-executable instructions for performing the method recited in claim 1 (Cain, col. 4, lines 49-52).

Independent claims 15, 20, and 29 are similar in scope to claim 1, and are therefore rejected under similar rationale.

As per claim 16, which is dependent on claim 15, Cain teaches the system of claim 15, wherein the creation component comprises a software application stored on a computer readable medium (Cain, col. 4, lines 49-52).

Dependent claim 17 is similar in scope to claim 5, and is therefore rejected under similar rationale.

Dependent claim 18 is similar in scope to claim 4, and is therefore rejected under similar rationale.

Dependent claim 19 is similar in scope to claim 6, and is therefore rejected under similar rationale.

As per claim 22, which is dependent on claim 20, Cain teaches the method of claim 20, further comprising the step of allowing the user to create a fixed representation of the image (Cain, col. 4, lines 57-63).

Dependent claim 23 is similar in scope to claim 2, and is therefore rejected under similar rationale.

Dependent claim 28 is similar in scope to claim 14, and is therefore rejected under similar rationale.

As per claim 30, Cain teaches the method of claim 1, further comprising displaying the fixed image (Cain, Fig.3).

As per claim 31, Cain teaches the method of claim 1, wherein the fixed image provides privacy for the patient by displaying information regarding the at least one of the identified conditions with the selected icon (Cain, col. 4, lines 57-63).

5. Claims 9-10, 13, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain and Richardson in view of Evans (US 5,924,074).

As per claim 9, which is dependent on claim 8, the method Cain and Richardson teaches a field in which the patient's name may be entered onto the electronic form (Cain, col. 4, lines 24-27), but fails to teach the step of searching for a stored image based on a name associated with the patient.

However, Evans teaches scanning the list to select the name of the appropriate patient (Evans, col. 5, lines 63-65). It would have been obvious to one skilled in the art at the time of invention to include the name searching system of Evans in the health care communication method Cain and Richardson because it would provide easy and immediate access to the records stored within the system.

As per claim 10, which is dependent on claim 9, Evans further teaches the method of claim 8, further comprising the step of modifying a stored image associated with a particular patient when the conditions of the particular patient change (Evans, col. 5, lines 7-13).

As per claim 13, which is dependent on claim 1, Evans further teaches the method of claim 1, further comprising the step of alerting a health care worker to the at least one of the identified conditions of the patient via the image (Evans, col. 5, lines 21-25).

As per claim 25, which is dependent on claim 20, the method Cain and Richardson fails to teach the method further comprising the step of allowing the user to select with the user interface selection device a form from the group consisting of: an accident investigation report, an employee information test, an employee report of injury, an employee resident survey, a facility to do list, an incident report, a patient information form, a resident handling ergonomics program, a resident handling program key and explanation, a resident handling program training outline, and at least one safety form.

Evans however, teaches an electronic medical records system that includes a patient data form that the user may select (Evans, Fig. 5; col. 6, lines 55-67 and col. 7, lines 1-5). It would have been obvious to one skilled in the art at the time of invention to include the multiple forms of Evans in the health care communication method Cain and Richardson because it would

provide the user with a graphically organized system allowing for easy access to patient's records (Evans, col. 6, lines 40-42).

As per claim 26, which is dependent on claim 25, Evans further teaches the method of claim 25, further comprising the step of allowing the user to customize the selected form by inputting information relevant to the selected form (Evans, col. 6, lines 55-67 and col. 7, lines 1-5).

As per claim 27, which is dependent on claim 26, Evans further teaches the method of claim 26, further comprising the step of storing each customized form in a computer readable medium (Evans, col. 2, lines 22-24).

6. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain and Richardson in view of Dunn (US 4,656,603).

As per claim 11, which is dependent on claim 1, the method Cain and Richardson fails to teach the method of claim 1, further comprising the step of customizing at least one icon to represent a specific condition.

Dunn teaches creating new icons and functions, and inputting the parameters which establish the formal rules for each icon and function (Dunn, col. 5, lines 56-60). It would have been obvious to one skilled in the art at the time of invention to use the ability to create new icons of Dunn in the medical communication method Cain and Richardson because it would provide the user with more descriptive icons, therefore allowing for more accurate notation of the diagnoses.

As per claim 12, which is dependent on claim 11, Dunn further teaches the method of claim 11, further comprising the step of maintaining an archive of original and modified images (Dunn, col. 2, lines 21-25).

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cain and Richardson in view of McCrae et al. ("McCrae", US 3,826,237).

As per claim 24, the method Cain and Richardson fails to teach the method of claim 20, wherein at least one of the icons is linked to at least one other icon such that selecting the at least one icon from the menu automatically selects the at least one other icon.

McCrae teaches a medical treatment flow chart system in which adding a specific type of node, or icon, automatically adds another node, or icon, to the flow chart (McCrae, col. 8, lines 59-67). It would have been obvious to one skilled in the art at the time of invention to use the linked icons in the medical diagnosis system of McCrae in the medical communication method Cain and Richardson because it would reduce the amount of work the user would be required to do to ensure all notations were made properly.

Response to Arguments

8. Applicant's arguments in RCE filed 6/27/2005 have been fully considered but they are not persuasive.

Applicants' argued the following:

a) The systems of Cain and Richardson do not teach a universal position for each of the icons.

The Examiner disagrees for the following reasons:

Per a) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., universal position for each of the icons) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The system of Cain and Richardson does teach the predetermined position to be independent of the condition of the patient (Richardson, col.4, lines 34-47). The position of the icon is determined by the user which the user may indicate to be anywhere (*even the same for all patients*). Thus, dictating the position regardless of which patient, makes it independent of the condition of the patient.

Communications

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajeda Muhebbullah whose telephone number is **(571) 272-4065**. The examiner can normally be reached on Tuesday/Thursday and alt. Mondays from 8:00 am to 4:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (571) 272-4063.

The central fax number for the organization where correspondence for this application or proceeding is assigned is (571) 273-8300.

Sajeda Muhebbullah
Patent Examiner
Art Unit 2174

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100